

BRENDA KAY DAVIS,

Plaintiff,

v.

PRESTIGE HEALTH CARE, d/b/a
JEFFERSON OPERATOR, LLC, d/b/a
JEFFERSON CITY HEALTH AND
REHABILITATION FACILITY

And

Karen Hamrick

Defendants.

Defendant Jefferson Operator, LLC, d/b/a Jefferson City Health and Rehabilitation Center improperly named in the caption (hereinafter “Defendant”) hereby removes this action to this Court pursuant to 28 U.S.C. § 1332. In support hereof, Defendant states as follows:

1. On June 22, 2012, Plaintiff Brenda Kay Davis (hereinafter “Plaintiff”) filed a Complaint, styled Brenda Kay Davis v. Prestige Health Care, d/b/a Jefferson Operator, LLC, d/b/a Jefferson City Health and Rehabilitation Facility, Complaint Case No. 123-310, in the Circuit Court of Jefferson County, Tennessee.

2. On or about August 17, Defendant's was served via U.S. mail with the aforementioned Complaint. A copy of the Complaint is being filed contemporaneously herewith and attached hereto along with the entire State Court Record as Exhibit A. The Complaint was

the only document served upon Defendant setting forth the claim for relief upon which Plaintiff's action is based.

3. Plaintiff's Complaint is a civil action for damages, alleging that Defendant terminated Plaintiff's employment because of Plaintiff's age and race, in violation of the Tennessee Human Rights Act.

4. Removal is proper, pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between the parties that have been served process of the state Court, namely Jefferson Operator, LLC, d/b/a Jefferson City Health and Rehabilitation. Plaintiff is a citizen of the State of Tennessee and Defendant is a foreign corporation with its principal place of business in Kentucky. (*See* Exhibit A, Complaint at ¶¶ 2; Secretary of State Filing Information, attached hereto as Exhibit B, at ¶ 3). The amount in controversy in this cause of action exceeds \$75,000.00, exclusive of interest, costs, and attorneys' fees as Plaintiff is seeking damages in the amount of \$350,000 in addition to other relief. (*See* Exhibit A, Complaint at ¶27).

5. Defendant Karen Hamrick is the resident Defendant and she has not been personally served with process in this matter; therefore, pursuant to 28 U.S.C. §1441(b) her citizenship has no bearing on removal. *See, McCall v. Scott*, 239 F. 3d 808, 813, n.2 (6th Cir. 2001); *In re Darvocet, Darvon & Propoxyphene Prods. Liab. Litig.*, 2012, U.S. Dist. LEXIS 99835 (E.D. Ky, 2012).

6. Defendant's Notice of Removal has been filed within 30 days after the initial receipt by Defendant of a copy of Plaintiff's Complaint in accordance with 28 U.S.C. § 1446(b).

7. Removal to this Court is proper pursuant to 28 U.S.C. § 1441(a) because it is in the district and division embracing the place where the state court action is pending.

8. A copy of this Notice of Removal, as well as the attached Notice of Filing Notice of Removal, attached hereto as Exhibit C, have been mailed to Plaintiff's counsel and are being filed with the Clerk of the Circuit Court of Jefferson County, Tennessee in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendant removes this action to the United States District Court for the Eastern District of Tennessee.

Respectfully submitted,

s/ J. Gregory Grisham
J. Gregory Grisham (TN Bar No. 013810)
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ATTORNEYS FOR DEFENDANT
JEFFERSON OPERATOR, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and mailed a true and correct copy of the same via U.S. Mail, first-class postage prepaid to the following:

C.E. Bud Cunningham (TN BPR No. 000015)
837 West First North Street
Morristown, TN 37814
Phone: (423) 581-2008

Attorneys for Plaintiff

s/ J. Gregory Grisham
J. Gregory Grisham